

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Applications of Comcast Corp,)	
Time Warner Cable Inc. and)	MB Docket 14-57
Charter Communications, Inc.)	
)	
For Consent to Assign or Transfer)	
Control of Licenses and Authorizations)	

PETITION TO DENY, OR IN THE ALTERNATIVE, FOR CONDITIONAL GRANT

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August 25, 2014

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SUMMARY

Founded in Boston in 1977, Zoom Telephonics, Inc. produces and markets cable modems and other communications products. Zoom cable modems are used by customers of numerous cable MSOs, including customers of Comcast and Time Warner Cable (TWC). By contrast, Charter has not allowed customers to attach their own modems and has bundled the price of a leased modem into its charge for Internet service.

Unlike Comcast and TWC, whose cable modem policies Zoom supports, Charter has for over two years had a publicly stated policy that has not allowed many of its customers to install their own modems purchased at retail or anywhere else, and from June 26, 2012 until now Charter has bundled its cable modem prices with its Internet services without separately stating the cost of the cable modem. On August 22, 2014, just three days before the filing deadline in this proceeding, Charter changed its cable modem attachment policies to permit customers to attach certain cable modems, none of which is stocked by major cable modem retailers Walmart, Staples and Office Depot. While Charter has stated to Zoom for over a year that Charter intends to have a certification program with established standards for customer-owned cable modems, Charter still does not have such a program. These practices violate Sections 629 of the Communications Act and Section 706 of the Telecommunications Act of 1996 and are contrary to the public interest.

Zoom has diligently attempted to work with Charter to obtain policy changes that would bring it into compliance with the law. Charter's last-minute effort to modify its policies is incomplete and inadequate, given the small number of listed modems and their very limited availability from U.S. retailers. Even if Charter customers are now able to obtain and use these

modems, Charter still has no reasonable, open certification program and Charter's pricing practices remove a key financial incentive for a customer to own a cable modem.

The proposed transactions would result in Charter acquiring cable systems serving millions of current Comcast and TWC customers. Zoom will be harmed by the extension of Charter's business practices to these cable systems. The public will also be harmed because Charter's policies reduce consumer cable modem choices and reduce the quantity of cable modems provided to consumers through retailers.

At one time, Charter had a cable modem certification program as part of a policy that allowed certified customer-owned modems to be installed on its systems. However, as of June 26, 2012, Charter refused to allow new customers, and many existing customers, to install customer-owned modems. Until August 22, 2014, Charter's website contained the following statement:

Note: Effective June 26, 2012 For new Internet Customers and customers switching to our New Package Pricing, we will no longer allow customer-owned modems on our network. In order to provide our customers powerful and reliable Internet service at a great value, we will provide modems included in Internet pricing under our New Package Pricing.

As of August 22, Charter changed its website to indicate that customers could attach "compliant" modems to Charter's network, but also stated that "you are offered a compliant modem without any additional charge...." Charter's list of compliant modems does not have one cable modem stocked by Walmart, Staples or Office Depot, three high-volume retailers of cable modems.

Section 629 of the Communications Act requires cable operators to permit customers to employ third party equipment so long as it does not jeopardize security. It also specifies that cable operators' rates for equipment covered by Section 629 be "separately stated and not

subsidized....” The Commission has unequivocally ruled that cable modems are covered by Section 629.

Section 706 of the Telecommunications Act of 1996 directs the Commission to “encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans...” The Commission’s *2005 Internet Policy Statement*, adopted pursuant to Section 706, declares that “consumers are entitled to connect their choice of legal devices that do not harm the network...,” and that “consumers are entitled to competition among network providers, application and service providers, and content providers.” Thus, Section 706 clearly empowers the Commission to require cable operators to allow cable modems to be attached to their network. And it also commits the Commission to insure competition in the affected markets, including the market for equipment such as cable modems.

Zoom’s modems are rigorously tested and present no safety, interference or other risk to any cable operator’s network.

Sections 76.1201-76.1203 of the Commission’s rules implement consumers’ right to attach equipment, including cable modems. Charter’s refusal to allow many customers to attach their own cable modems violate Sections 629 and 706 and the Commission’s rules promulgated thereunder.

Charter’s refusal to state separate and unsubsidized prices for cable modems also violates the law and Commission regulations. Section 76.1206 of the Commission’s rules implement the specific statutory directive of Section 629 that cable operators’ equipment rates be separately stated and not subsidized. Section 76.1206 cross-references Section 76.923 of the Commission’s rules. Although the cross-reference creates some ambiguity as to whether cable modems are

covered by Section 76.923, reading the provision in light of the clear directive of Section 629, the timing of the promulgation of Section 76.1206 and the goals of Section 629, it is clear that cable operators are required to separately state prices for cable modems and not subsidize their use.

The rights set forth in Section 629 further support the view that cable operators must allow customer-owned modems to be attached to their networks, and must separately state their rates and not subsidize their use.

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PETITION TO DENY, OR IN THE ALTERNATIVE, FOR CONDITIONAL GRANT

Zoom Telephonics, Inc. respectfully submits this petition to deny the proposed transactions involving Comcast Corporation (Comcast), Time Warner Cable Inc. (TWC) and Charter Communications, Inc. (Charter) insofar as they allow Charter to acquire cable systems currently operated by Comcast and TWC and permit Charter to manage cable systems to be assigned to a new company, SpinCo, thereby increasing the number of Charter subscribers and thereby reducing customer cable options and harming U.S. retailers of cable modems. Zoom asks that the Commission designate the applications for hearing or, in the alternative, condition any grant of the applications upon Charter's full compliance with Section 629 of the Communications Act and Section 706 of the Telecommunications Act of 1996, including requirements that Charter adopt reasonable policies for customer attachment of modems to its systems, that Charter's rates for leasing cable modems be unsubsidized and unbundled, that Charter separately state a charge for cable modems leased from Charter, and that a customer not be subjected to this charge if the customer supplies his or her own cable modem.

As more fully discussed below, Charter had for over two years employed practices that prevented many of its subscribers from attaching customer-owned cable modems to Charter's

network. On or about Friday, August 22, 2014 - three days before the deadlines for petitions to deny in this proceeding - Charter changed its cable modem attachment policies to permit customers to attach certain cable modems, none of which is stocked by major cable modem retailers Walmart, Staples and Office Depot. Even after this change, Charter continues to bundle the price for lease of a Charter-supplied cable modem into its service charge, claiming the cable modem is made available “without any additional charge.” These policies violate Section 629, which requires that customers be allowed to attach their own cable modems and that prices for cable modems must be separately stated and not subsidized. They also contravene the Commission’s *Internet Policy Statement*, which was adopted pursuant to Section 706(a) of the Telecommunications Act of 1996, as well as the public interest standard of the Communications Act.

INTRODUCTION

Unlike Comcast and TWC, whose current cable modem policies Zoom supports, Charter, for over two years, had employed practices that prevented many of its subscribers from attaching customer-owned cable modems to Charter’s network and had bundled the cable modems’ prices into the cost of its Internet services. Moreover, while Charter claimed to Zoom for over a year that it intended to allow customer-owned cable modems onto its network if those modems were certified in a program with reasonable standards available to Zoom and other modem producers, it has not as yet adopted such a certification program for customer-owned modems. On or about August 22, 2014, Charter changed its policies so that customers can, according to Charter’s website, attach their own modems; but Charter’s program remains inadequate to fulfill the statutory goal of competition in the equipment market. Charter’s practices violate Sections 629

of the Communications Act and Section 706 of the Telecommunications Act of 1996.

Charter's pricing policies also violate the Communications Act. Unlike Comcast and TWC, it charges a single bundled rate for Internet service and lease of a cable modem. Section 629 requires that the charges for cable modems be cost-based and unbundled. Because there is no cost saving for customers who attach their own modems, Charter's policies eliminate a key reason for consumers to purchase their own modems.

The proposed transactions would result in Charter significantly increasing its number of subscribers. Zoom will be grievously harmed by the extension of Charter's business practices to its newly-acquired subscribers.¹ The public will also be harmed because Charter's policies reduce consumer cable modem choices. U.S. retailers of cable modems will be hurt because Charter's policies reduce the number of cable modems sold by retailers.

Founded in Boston in 1977, Zoom Telephonics, Inc. produces and markets cable modems and other communications products. Currently, Zoom is the third largest supplier of cable modems to retailers in the United States and the only one whose cable modem business is primarily through retailers and not through service providers. Zoom cable modems are used by customers of numerous cable MSOs, including customers of Comcast, TWC, Cox, and Bright House.

The transactions under consideration by the Commission would result in Charter acquiring former Time Warner Cable systems serving approximately 1.5 million video customers.² In addition, through an exchange agreement, Charter will acquire former Time

¹See attached declaration of Frank Manning (Exhibit A).

²See SpinCo Public Interest Statement (filed June 5, 2014) at pp. 5-6.

Warner Cable cable systems serving another approximately 1.5 million video customers.³

Comcast will also divest cable systems serving approximately 2.5 million Comcast video subscribers through a spin-off into a new company currently known as “SpinCo.” Charter will manage and operate SpinCo’s cable systems pursuant to a services agreement. According to a Form 8-K filed with the Securities and Exchange Commission on April 25, 2014, “products and services provided by Charter under the services agreement with SpinCo shall be co-branded under the Charter and SpinCo brand names.”⁴

If the proposed transactions are consummated, Charter will have in excess of 9% of all U.S. cable customers and will manage the network for approximately 4% more. Because of this, an increased number of retailer locations will be in Charter territories, territories where Charter’s anti-competitive behavior will dramatically reduce retailer sale of cable modems. This will result in slow-moving inventory, a decision not to stock cable modems, or both, in some locations. The retail cable modem market, already impacted by unusually high costs and delays associated with the current certification processes, will become even further restricted.

Increasing Charter’s number of subscribers reduces Zoom’s ability to sell cable modems. Accordingly, Zoom has standing to file this petition.

I. UNLIKE TWC AND COMCAST, CHARTER HAS NOT REASONABLY ALLOWED CUSTOMER-OWNED MODEMS TO BE ATTACHED TO ITS NETWORK.

Charter has had policies that prevented the use of customer-owned cable modems on its

³Most video subscribers also purchase Internet services from their cable system.

⁴Charter Communications, Inc., Form 8-K, Exhibit 2.1 (April 28, 2014)

network.

A. Charter's Attachment Policies Until August 22, 2014.

Unlike Comcast and TWC, Charter has had policies that prevent customers from connecting customer-owned cable modem to its network. At one time, Charter had a cable modem certification program as part of a policy that allowed certified customer-owned modems to be installed on its systems.⁵ However, this changed, effective June 26, 2012. As of that date, Charter stopped allowing new customers, and the many existing customers switching to Charter's New Package pricing, to attach customer-owned modems to the Charter network.

Charter's website contained the following statement:

***Note:** Effective June 26, 2012 For new Internet Customers and customers switching to our New Package Pricing, we will no longer allow customer-owned modems on our network. In order to provide our customers powerful and reliable Internet service at a great value, we will provide modems included in Internet pricing under our New Package Pricing.*⁶

Thus, Charter prevented many of its customers from attaching customer-owned modems to its network. Charter has supplied its customers a simple "bridge cable modem," one without router, wireless or telephony capabilities.

⁵Zoom does not know the number of Charter customers who had their own cable modems as of June 26, 2012 and who have not migrated to a new pricing plan. Zoom believes the majority of Charter customers use a Charter-supplied cable modem, based on figures supplied by Charter in its filings with the SEC. It is unclear if Comcast and TWC customers acquired by Charter will be able to continue to use modems not certified by Charter.

⁶(Italics in the original.) The link has been changed. A screen shot of the website as of the morning of August 22, 2014 is attached as Exhibit B. An archived copy of the relevant page can be viewed at <https://web.archive.org/web/20140222141349/http://www.myaccount.charter.com/customers/support.aspx?supportarticleid=2623>

B. Zoom Has Attempted to Resolve Its Concerns With Charter's Attachment Policies.

Zoom has, over nearly two years, urged Charter to establish a certification program which would set forth reasonable and consistent standards so that any modem manufacturer could know what criteria Charter employs and be able to submit modems for certification as qualified for attachment as a customer-owned cable modem to the Charter network. Thus far, Charter has not established such a program.

On October 26, 2012, Zoom followed up on several conversations with Charter representatives by sending a letter which stated that Charter's policies are unlawful and that

In light of what appears to be a clear legal mandate, Zoom is at a loss to understand the basis of Charter's revised policy. Zoom's modems do not cause electronic or physical harm to your network. Zoom's modems are also not "intended or designed to assist in the unauthorized receipt of service" within the meaning of the FCC's rules.⁷

The letter concluded by stating

In summary, the three largest cable service providers play by the rules established by Congress and the FCC. The fourth largest cable service provider, Charter, should do the same.⁸

Discussions continued with minimal progress towards resolution. On December 6, 2013, Zoom again wrote to Charter, stating that

We will continue to work with Charter to help finalize reasonable technical standards. We expect to submit Zoom modems for certification soon, with the goal of providing Charter-certified cable modems for US retailers for

⁷Letter from Frank Manning to Robert E. Quicksilver, October 26, 2012. (Exhibit C.)

⁸*Id.*

successful sale to Charter customers.⁹

Over the following eight months, slow progress has been made, but to date Charter has not established or published standards for customer-owned modems to be attached to its network.

C. Charter's Attachment Policies As Of August 22, 2014.

Sometime during the day on August 22, 2014, Charter modified its attachment policies as set forth on its website. Charter's new attachment policies purport to allow its customers to attach their own modems to its network. Charter's website now says that

Charter Internet customers are required to use a compliant device in order to use the Charter network without interruption and receive optimal service performance. Devices identified as not compliant may be subject to intermittent or no service.¹⁰

Charter now identifies 17 modems as "compliant." None of these 17 products is stocked in Walmart, Staples, or Office Depot stores, and only two are stocked at Best Buy. Only four of these 17 products include wireless router capability, and none include 802.11ac wireless router capability. 802.11ac wireless capability supports use of the less-crowded 5GHz band, and represents a technical advance for users who otherwise experience congestion in the standard 2.4GHz band used in 802.11n. Charter subscribers are currently precluded from taking advantage of cable modems that incorporate this technology. The modems on Charter's list were not certified under a published certification program available to Zoom and other producers of cable modems targeted for sale at U.S. retailers.

⁹Letter from Frank Manning to Paul Glist, December 6, 2013. (Exhibit D.)

¹⁰<http://www.myaccount.charter.com/customers/support.aspx?supportarticleid=2623> (Exhibit E).

Charter customers using a “free” bridge cable modem provided by Charter need to attach additional equipment if they want the capabilities of a wireless router. Instead of a single integrated device such as many of the devices certified by Comcast and TWC, these Charter customers need an additional device if they want wireless router capabilities with their Charter service. This means that these customers need unsightly cables to connect the devices, and they need extra space to hold the devices. Since each connection introduces a potential connection failure, the reliability of such an arrangement is typically lower than an integrated device.

D. Comcast and TWC Cable Modem Attachment Policies.

Comcast and TWC facilitate the use of customer-owned modems. Comcast’s website contains a list of compliant modems, including Zoom modems. That list includes forty one Comcast certified DOCSIS 3.0 cable modems from a total of ten companies, and at least twenty-two of these cable modems include wireless router or telephony capabilities. The list includes cable modems that are stocked by Best Buy, Walmart, Staples, Office Depot, and other leading U.S. cable modem retailers.

TWC’s website has a page titled “Purchase your own Internet modem.” It provides a list of fifteen TWC certified DOCSIS 3.0 cable modems from a total of five companies, including Zoom, and at least five of these cable modems include wireless router capabilities. TWC’s website states that

We strive to offer our Time Warner Cable customers with the fastest and most reliable internet, every step of the way.

That’s why you have the option of leasing your modem or buying your own.¹¹

¹¹<http://www.timewarnercable.com/en/support/internet/topics/buy-your-modem.html>
(Exhibit F)

E. Zoom Modems Present No Risk To Charter's Network.

Zoom's modems are rigorously tested and present no safety, interference or other risk to any cable operator's network. However, Charter nonetheless will not allow most of its customers to attach a Zoom modem to its network.

Before a cable modem may be sold for use at home or the office in any part of the United States, for any cable service provider, it must undergo a plethora of FCC-mandated tests and meet a variety of standards. Different cable operators' certification programs vary both in terms of cost and the time needed to complete testing.

First, a cable modem must comply with FCC requirements set forth in Subpart 15B of the Commission's regulations.¹² A cable modem must be tested to demonstrate that the electronic emissions radiated into the environment or conducted onto AC power lines by the device are appropriately restricted and that the device is not susceptible to failure due to emissions received from another electronic device. Such testing usually costs between \$6000 and \$8000.

Second, cable modems with built-in wireless routers must be tested to comply with FCC Subpart 15C¹³ to make sure, for instance, that their wireless signals don't cause undue interference with other wireless equipment.

Third, to comply with requirements of the Occupational Health and Safety Administration (OSHA), for use in the workplace and to comply with the rules of some municipalities, cable modems must be safety tested. The requisite testing may be administered by any nationally recognized testing laboratory (NRTL). Underwriters Laboratories (UL) is the

¹²See 47 CFR Part 15, Subpart B.

¹³See 47 CFR Part 15, Subpart C.

largest and most widely recognized NRTL. An NRTL tests cable modems for a variety of potential safety risks, such as fire, electric shock, and hot surfaces. Safety testing of a well-designed cable modem typically costs between \$5000 and \$9000, and typically takes six to eight weeks.

Fourth, cable modems must complete CableLabs testing. CableLabs is a research and development consortium of cable operators. CableLabs tests cable modems for adherence to a set of standards called the Data Over Cable Service Interface Specification (“DOCSIS”). These standards have been developed so that all equipment from all cable modem manufacturers can operate on the networks of all cable operators. DOCSIS includes radio frequency interface (“RFI”) standards designed, among other considerations, to ensure that a cable modem will not inject harmful signals into a cable operator’s network, and a Baseline Privacy Interface (“BPI”) to ensure that a cable modem will not facilitate theft of services. DOCSIS also ensures that a cable modem will not transmit in a time slot reserved for another cable modem.

A cable modem manufacturer seeking certification from CableLabs first must conduct a suite of tests that verify its cable modem complies with DOCSIS standards and turn in appropriate documentation as part of its submission. Success in this part of the CableLabs certification is defined as passing every test, with not a single failure unless CableLabs agrees to a documented exception. CableLabs itself then may run the cable modem through any or all of the tests specified in the DOCSIS test suite. CableLabs also evaluates how the cable modem handles large data flows over extended periods and tests for interoperability with other DOCSIS equipment in its laboratories. The interoperability testing evaluates in a realistic setting whether the cable modem injects harmful signals into the network and/or transmits at times reserved for

other cable modems. CableLabs also verifies the validity of the cable modem's security mechanisms to ensure that the device will not facilitate theft of service.

CableLabs testing for a well-designed cable modem model generally costs \$75,000 and takes twelve weeks to complete. Because CableLabs certification testing verifies that a cable modem adheres to DOCSIS specifications, it is extremely unlikely that a CableLabs-certified cable modem will inject harmful signals into a network, or otherwise cause electronic or physical harm to a network. DOCSIS specifications ensure within very stringent limits that a cable modem's signals will neither harm the provider's network nor interfere with other cable modems or equipment connected to that network. It is also extremely unlikely that a CableLabs-certified cable modem will facilitate the unauthorized receipt of service from a cable operator. DOCSIS specifications include the BPI security infrastructure that dramatically minimizes the possibility that someone could steal service using a cable modem.

Once a cable modem model has received appropriate FCC certification and CableLabs certification, it may be attached to the networks of many cable operators in the United States. (In some workplaces and municipalities, safety certification may also be required.) Zoom cable modems are certified by the FCC, an NRTL and CableLabs. Some cable operators, including Comcast and TWC, also require certification by their own company. Several Zoom modems are certified by Comcast and TWC. Charter does not as of this time have a certification program.

II. UNLIKE COMCAST AND TWC, CHARTER DOES NOT SEPARATELY STATE A PRICE FOR CABLE MODEM LEASING AND SUBSIDIZES THE COST OF LEASING.

As noted above, until August 22, 2014, Charter's website stated that:

In order to provide our customers powerful and reliable Internet service at a great value, we will provide modems included in Internet pricing under our New

*Package Pricing.*¹⁴

As of August 22, 2014, Charter's website states that

As a Charter Internet customer, you are offered a compliant modem without any additional charge when you subscribe to a New Pricing and Packaging service tier. You may also choose to buy a modem that is certified by Charter to work with your Internet service.¹⁵

Thus, there has been no change in Charter's pricing policy for cable modems. Before and after August 22, 2014, Charter has bundled the cost of leasing a cable modem into the price it charges for Internet service. This inclusive price therefore constitutes a subsidy for the lease of a cable modem. Charter's rhetoric does not change the fact that a modem "included in Internet pricing" or made available "without additional charge" is being subsidized by Charter.

By contrast, both Comcast and TWC separately state the price for leasing a cable modem. Zoom believes that Comcast typically charges about \$8.00/month to lease a cable modem, stated by a Comcast customer representative contacted on August 8, 2014. TWC separately states the price (currently, \$5.99/month) for leasing a modem.¹⁶

Zoom has tried, without success, to convince Charter to comply with its statutory obligations. In its October 26, 2012 letter to Charter, Zoom stated that

¹⁴The link has been changed. A screen shot of the website as of the morning of August 22, 2014 is attached as Exhibit B. An archived copy of the relevant page can be viewed at <https://web.archive.org/web/20140222141349/http://www.myaccount.charter.com/customers/support.aspx?supportarticleid=2623>

¹⁵<http://www.myaccount.charter.com/customers/support.aspx?supportarticleid=2623> (Exhibit E).

¹⁶<http://www.timewarnercable.com/en/packages/cable-internet-packages.html#1service> (Exhibit G).

Zoom also views Charter's policy as a form of economic discrimination, since it forces a customer to rent a Charter modem whether or not the customer wants to do that. The fact that the cost of the cable modem is bundled into Charter's monthly service does not change that fact.¹⁷

Zoom continued to press the issue. In its December 6, 2013 letter to Charter, Zoom said that

Zoom made it clear once again during our December 3 call that our view is that Charter needs to provide a reasonable savings to someone purchasing his or her own cable modem from a retailer. We are not trying to dictate a particular savings, but we are saying that the savings should reasonably reflect costs. We believe our position is supported by Section 629 of the Communications Act, 47 U.S.C. §549 and implementing regulations, including 47 [C.F.R.] §§[76.]1201, 1202, 1203 and 1206. These laws and regulations make it clear that Charter is required to separately state the cost of cable modems.¹⁸

Despite Zoom's efforts to obtain an amicable resolution of the question, Charter has refused to change its pricing policies.

III. LEGAL AND REGULATORY FRAMEWORK.

Section 629 of the Communications Act and FCC regulations promulgated thereunder establish a right to attach customer-owned devices and requires that cable operators must separately state the price for cable modems that it sells or leases.

A. Cable Modems Are Covered by Section 629.

Section 629 of the Communications Act¹⁹ requires cable operators to permit customers to

¹⁷See Exhibit C.

¹⁸See Exhibit D.

¹⁹The full text of Section 629(a) reads as follows:

a) Commercial consumer availability of equipment used to access services provided by multichannel video programming distributors

The Commission shall, in consultation with appropriate industry standard-setting organizations, adopt regulations to assure the commercial availability, to consumers of multichannel video programming and other services offered over multichannel video programming systems, of converter boxes, interactive communications equipment, and other equipment used by

employ third party equipment so long as it does not jeopardize safety. It provides in pertinent part that

The Commission shall...assure the commercial availability, to consumers of multichannel video programming and other services offered over multichannel video programming systems, of converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services...from manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor.

Section 629 reflects Congress' desire to promote competition in the equipment market. The title of the section broadly refers to "services provided by multichannel video programming distributors." The legislative history reflects Congress' view that "competition in the manufacturing and distribution of consumer devices has always led to innovation, lower prices, and higher quality."²⁰

To implement Section 629, the Commission adopted Subpart P of Part 76 of its rules, titled "Competitive Availability of Navigation Devices." In its order adopting these rules, the Commission stated that "[t]he language of Section 629 indicates that Congress sought to have the marketplace offer consumers a choice over a broad range of equipment."²¹ The Commission therefore concluded that "Section 629 neither exempts nor limits any category of equipment used

consumers to access multichannel video programming and other services offered over multichannel video programming systems, from manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor. Such regulations shall not prohibit any multichannel video programming distributor from also offering converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, to consumers, if the system operator's charges to consumers for such devices and equipment are separately stated and not subsidized by charges for any such service.

²⁰Rept. No. 104-204, 104th Cong., 1st Sess. 112 (1995).

²¹*In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996*, 13 FCC Rcd 14775, 14784 (1998)(emphasis added).

to access multichannel video programming or services offered over such systems from its coverage.”²² To promote competition and facilitate the commercial availability of equipment, the Commission “mandate[d] that subscribers have a right to attach any compatible navigation device to an MVPD system, regardless of its source, subject to the proviso that the attached equipment not cause harmful interference, injury to the system or compromise legitimate access control mechanisms.”²³ The Commission concluded that this “right to attach” would create a “substantial incentive” for manufacturers “to develop and distribute new products in response to consumer demands for equipment and features” and “lead to a broader market for equipment used with MVPD systems.”²⁴

The Commission unequivocally ruled that cable modems are covered by Section 629, holding that

Section 629 covers not just equipment used to receive video programming, but also equipment used to access “other services offered over multichannel video programming systems.” Such equipment includes televisions, VCRs, cable set-top boxes, personal computers, program guide equipment, *and cable modems*.²⁵

The Commission considered and rejected arguments that Section 629 does not apply to cable modems and reiterated that

We believe that the statutory language of Section 629 indicates that its reach is to be expansive and that Section 629 neither exempts nor limits any category of equipment used to access multichannel video programming or services offered over such systems from its coverage. Equipment used to access video programming and other services offered over multichannel video programming

²²*Id.*

²³*Id.*, 13 FCC Rcd at 14786.

²⁴*Id.*

²⁵*Id.*, 13 FCC Rcd at 14776.

systems include televisions, VCRs, cable set-top boxes, personal computers, program guide equipment *and cable modems*.²⁶

Most recently, in the National Broadband Plan, the Commission reaffirmed that Section 629 covers cable modems.²⁷

B. Section 706 Gives the Commission Concurrent Authority over Attachment and Pricing of Cable Modems.

Section 706(a) of the Telecommunications Act of 1996 gives the Commission a broad mandate to

encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) by utilizing, in a manner consistent with the public interest, convenience, and necessity,...regulating methods that remove barriers to infrastructure investment.

Section 706(b) directs the Commission to

determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion. If the Commission's determination is negative, it shall take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market.

In its most recent inquiry into advanced telecommunications capability, the Commission said that it “must conclude that broadband is not yet being deployed ‘to all Americans’ in a reasonable and timely fashion.”²⁸ The Commission thus has the obligation to “take immediate action to accelerate deployment....”

²⁶*Id.*, 13 FCC Rcd at 14784 (Emphasis added).

²⁷*See Connecting America: The National Broadband Plan*, at 24, n.24 (2010).

²⁸*Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, 27 FCC Rcd 10342, 10344 (2012).

Part of the Commission's mandate under Section 706 is to create a competitive market for equipment which will accelerate deployment by reducing prices and promoting technological innovation. This was recognized in the Commission's *2005 Internet Policy Statement*, which was adopted pursuant to Section 706(a).²⁹ There, the Commission concluded that it had

a duty to preserve and promote the vibrant and open character of the Internet as the telecommunications marketplace enters the broadband age. To foster creation, adoption and use of Internet broadband content, applications, services and *attachments*, and to ensure consumers benefit from the innovation that comes from competition, the Commission will incorporate...[four]...principles into its ongoing policymaking activities.³⁰

To emphasize the importance of its reference to "attachments," the third of the four principles adopted in the *2005 Internet Policy Statement* clearly set forth that

*To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to connect their choice of legal devices that do not harm the network.*³¹

Thus Section 706 clearly empowers the Commission to require cable operators to allow cable modems to be attached to their network. And it also commits the Commission to insure competition in the affected markets, including the market for equipment such as cable modems.

C. Implementation of The Right to Attach Cable Modems.

The Commission's *2005 Internet Policy Statement* simply reaffirmed a right to attach equipment that had previously been established by Section 629.

In 1998, having determined that cable modems are within the scope of equipment

²⁹*Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, 20 FCC Rcd 14986 (2005).

³⁰*Id.*, 20 FCC Rcd at 14988.

³¹*Id.* (first emphasis in the original).

covered by Section 629, the Commission adopted three separate provisions to establish and fortify consumers' rights to attach devices of their choosing to a multi-channel video provider's (MVPD) network. 47 CFR §76.1201 sets forth the "[r]ights of subscribers to use or attach navigation devices":

No multichannel video programming distributor shall prevent the connection or use of navigation devices to or with its multichannel video programming system, except in those circumstances where electronic or physical harm would be caused by the attachment or operation of such devices or such devices may be used to assist or are intended or designed to assist in the unauthorized receipt of service.

To insure that cable operators would not interfere with the right to attach, Section 76.1202 forbids any MVPD to

by contract, agreement, patent right, intellectual property right or otherwise prevent navigation devices that do not perform conditional access or security functions from being made available to subscribers from retailers, manufacturers, or other vendors that are unaffiliated with such owner or operator,..."

Section 76.1203 places a limit on technical specifications for devices such as modems. It specifies that any MVPD's "standards and descriptions of devices that may not be used with or attached to the system...shall foreclose the attachment or use only of such devices as raise reasonable and legitimate concerns of electronic or physical harm or theft of service."

D. The Requirement to Offer Unbundled and Non-subsidized Modem Prices.

Section 629 also addresses charges for modems and other devices by providing that the Commission's

regulations shall not prohibit any multichannel video programming distributor from also offering converter boxes, interactive communications equipment, *and other equipment* used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, to consumers, *if the system operator's charges to consumers for such devices and equipment are separately stated and not subsidized by charges for any such service.*

(Emphasis added.)

To implement this requirement, the Commission adopted an anti-subsidy provision in Section 76.1206, which prohibits rate regulated MVPDs from bundling modems with Internet service prices:

Multichannel video programming distributors offering navigation devices subject to the provisions of §76.923 for sale or lease directly to subscribers, shall adhere to the standards reflected therein relating to rates for equipment and installation and *shall separately state the charges to consumers for such services and equipment.*

(Emphasis added.)

There is some ambiguity created Section 76.1206's cross-reference to Section 76.923. The best reading is that Section 76.1206 applies to all rate-regulated MVPD's which offer any kind of equipment for lease, whether or not that equipment is used to receive the basic tier of video services. As such, cable modems pricing must be separately stated and not subsidized.

Section 76.923 applies to all MVPD's, except in systems where there is effective competition. In regulated systems, Section 76.923 sets forth rate regulations, including anti-subsidy and anti-bundling requirements, for

all equipment in a subscriber's home, provided and maintained by the operator, that is used to receive the basic service tier, regardless of whether such equipment is additionally used to receive other tiers of regulated programming service and/or unregulated service.³²

Section 76.1206 could be read as referring to "equipment...subject to the provisions of §76.923...." Since cable modems are not necessarily devices "subject to the provisions of §76.923....," that reading would not extend the anti-bundling and anti-subsidy requirements to cable modems.

³²47 CFR §76.923(a)(1).

However, the better reading is that Section 76.1206 refers to all “[m]ulti-channel video programming distributors...subject to the provisions of §76.923...,” and is intended to extend the requirements of the pre-existing Section 76.923 to all equipment covered by Section 629. Thus, any MVPD which offers “navigation equipment for lease” is also subject to the requirements of Section 76.1206, and must therefore adhere to rate regulations and the requirement to separately state their prices for equipment subject to Section 629, *i.e.*, cable modems.

There are three reasons why this is the superior reading of Section 76.1206. First, it would be illogical that a statute intended to promote competition and innovation would be implemented so as to afford a right to attach but allow pricing schemes, such as Charter’s, that would remove any incentive for customers to enter the retail market and purchase a customer-owned modem.³³ As *USA Today* explained in an article entitled “Should You Buy Your Own Modem?”

In some cases, however, there's no point to buying your own. Cablevision folds the cost of a modem into its charge for Internet service, and Charter switched to that system last summer.³⁴

Second, it is important to note that Section 73.923 was adopted in 1993, before cable modems were available in the commercial market.³⁵ Even then, the Commission saw that Congress intended that its jurisdiction over rates for cable equipment was broad:

³³Customers tend to misperceive the subsidized unbundled price as amounting to a “free” modem. *See, e.g.*, <http://boards.straightdope.com/sdmb/showthread.php?t=711616> (“Times have changed. My cable company, Charter, now offers 100% free modems (no install charge if you do it yourself) with DOCSIS 3.0. Why should I buy one that might work when Charter gives me one free that is guaranteed to work?”)

³⁴ <http://www.usatoday.com/story/tech/columnist/2013/08/18/cable-modem-alternatives-internet/2661689/> (August 13, 2013)

³⁵47 CFR §76.923(a)(1).

We believe that Congress included equipment and installation in the definition of cable programming services to prevent cable operators from avoiding regulation of equipment, if any, used to provide cable programming services alone or in conjunction with unregulated services.”³⁶

Thus, had cable modems been in use in 1993, the Commission would have written Section 76.923 to cover them explicitly. This comports with the view that the Commission, acting in 1998 extended the broad reach of Section 76.923 to include cable modems.

Third, and most importantly, it is impossible to reconcile the express anti-subsidy and anti-bundling requirements of Section 629 with a reading of Section 76.1206 which does not apply to cable modems. As noted above, the Commission has clearly ruled in the very same order that cable modems are covered by Section 629. To say that cable operators could fail to separately state prices for cable modems, or subsidize them, would render the last sentence of Section 629 to be a nullity. It is a basic principle of administrative law that a regulation should be interpreted so as to avoid conflict with a governing statute.³⁷ If Section 76.1206 were to be read as not applying the terms of Section 629 to cable modems, it would be void.³⁸

Even if one were inclined to read Section 76.1206 more narrowly, it is important to bear in mind that practices which do not contravene specific Commission regulations can still be contrary to the public interest, especially when they transgress a specific provision in the

³⁶*Id.*, 8 FCC Rcd at 5807.

³⁷*See, e.g., Caldera v. J.S. Alberici Constr. Co.*, 153 F.3d 1381, 1383 n.** (Fed. Cir.1998) (“Statutes trump conflicting regulations”); *Wolf Creek Collieries v. Robinson*, 872 F.2d 1264, 1267 (6th Cir.1989) (“statutory language ... prevail[s] over inconsistent regulatory language”).

³⁸*See American Airlines, Inc. v. Transportation Security Administration*, 665 F.3d 170, 176 (D.C. Cir. 2011)(“a regulation contrary to a statute is void.”) (*quoting Orion Reserves Ltd. P'ship v. Salazar*, 553 F.3d 697, 703 (D.C. Cir. 2009)).

Communications Act.³⁹ Moreover, as explained above, Section 706 affords an entirely independent basis for requiring that cable modem rates be separately stated and not subsidized. Since Section 706 was adopted contemporaneously with Section 629, the two must be read together. Applying the Commission's Section 706 authority to Section 76.1206 thus supports this result.

IV. CHARTER'S POLICIES VIOLATE SECTION 629, SECTION 706 AND THE COMMISSION'S RULES PROMULGATED THEREUNDER AND ARE CONTRARY TO THE PUBLIC INTEREST.

Unless Charters cable modem policies change, allowing Charter to acquire cable systems currently owned by TWC and Comcast will harm Zoom, harm U.S. retailers of cable modems, and, more importantly, deny millions of Charter customers cable modem rights they deserve. Charter's last-minute effort to modify its policies is incomplete and inadequate, given the limitations of the listed modems and their very limited availability from U.S. retailers. Even if it were possible for Charter customers to obtain and use customer-owned modems, including Zoom products, Charter's pricing practices remove a key financial incentive to do so.

Taken together, Charter's anti-competitive practices damage the market for cable modems and impair the innovation that comes with fully-functioning competitive markets that offer a choice of devices with innovative functionality.

³⁹See, e.g., *Applications for Consent to the Assignment And/or Transfer of Control of Licenses Adelphia Communications Corporation, (And Subsidiaries, Debtors-in-possession)*, 21 FCC Rcd 820, 8207 (2006)(Footnote omitted.)("If the transactions would not violate a statute or rule, the Commission next considers whether the transactions could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Communications Act or related statutes.") See also, *Applications for Consent to Transfer Control from Shareholders of Belo Corp., LLC*, 28 FCC Rcd 16867, 16877 (2013)("If the transaction would not violate a statute or rule, the Commission considers whether a grant could result in public interest harms (by substantially frustrating or impairing the objectives or implementation of the Act or related statutes) or public interest benefits.")

Section 629 was enacted to prevent this result. It applies to cable modems, and is designed to create a competitive environment that encourages technological progress. Section 706 reinforces that power. The Commission has adopted rules to assure that there is a vibrant and competitive equipment market. Allowing Charter to extend its policies to millions of additional customers is contrary to the public interest.

CONCLUSION

For the reasons set forth above, there are substantial and material questions of fact as to whether grant of the applications would be contrary to Section 629 of the Communications Act, Section 706 of the Telecommunications Act of 1996, and the public interest standard.

Accordingly, Zoom asks that the Commission designate the applications for hearing, that the Commission deny the applications or, in the alternative, condition any grant of the applications upon Charter's full compliance with Section 629 of the Communications Act and Section 706 of the Telecommunications Act of 1996, including requirements that Charter adopt reasonable policies for attachment of customer-owned modems to its systems, that the Commission require that Charter's rates for leasing cable modems be unsubsidized and unbundled, and that the Commission require Charter to separately state a charge for cable modems leased from Charter.

Respectfully submitted,



Andrew Jay Schwartzman
600 New Jersey Avenue, NW
Room 312
Washington, DC 20001
(202) 662-9170
AndySchwartzman@gmail.com

August 25, 2014

EXHIBIT A

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Applications of Comcast Corp,)	
Time Warner Cable Inc. and)	MB Docket 14-57
Charter Communications, Inc.)	
)	
For Consent to Assign or Transfer)	
Control of Licenses and Authorizations)	

DECLARATION OF FRANK MANNING

I am President and CEO of Zoom Telephonics, Inc. I have knowledge of the facts set forth in the foregoing Petition to Deny, or in the Alternative, for Conditional Grant. To the best of my knowledge and belief, those facts are true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on:

August 25, 2014



Frank Manning

EXHIBIT B

Compliant and Non Compliant Modems/Gateways on Charter's Network

Note: *Effective June 26, 2012 For new Internet Customers and customers switching to our New Package Pricing, we will no longer allow customer-owned modems on our network. In order to provide our customers powerful and reliable Internet service at a great value, we will provide modems included in Internet pricing under our New Package Pricing.*

General Info

[Compliant General Info](#)

[Non compliant General Information](#)

[Customer Notification](#)

Identifying Your Equipment

[Cable Modems](#)

[Routers](#)

[Gateway](#)

Quick Links

[Modem Replacement Program](#)

[Restarting Your Cable Modem](#)

[Charter WiFi](#)

[Customer Owned Wireless Home Networking](#)

Compliant/Supported Modems/Gateways General Information

Charter Internet subscribers are required to use a compliant device in order to use the Charter network without interruption and receive optimal service performance. Devices identified as non compliant are subject to intermittent or no service due to network updates. Charter continues to provide customers with the most up-to-date equipment, compliant with our network, to ensure services work as intended.

Any device considered non compliant must be replaced with a compliant device.

Modems and gateways identified as non compliant include devices that are phased out due to older versions of firmware that are unable to receive updates.

Charter Internet is compatible with most DOCSIS 2.0 and DOCSIS 3.0 devices. Please note that Charter's Plus, Max (Grandfathered) and Ultra Speeds require a DOCSIS 3.0 device to ensure you experience the full upload and download speeds that those packages offer.

Non compliant/Unsupported Modems/Gateways General Information

Modems and gateways installed with outdated firmware that have been identified and that cannot be updated.

If you attempt a self install and our network identifies your modem or gateways to be incompatible you may not be able to complete your installation. Your device is recognized automatically by the provisioning process (<https://install.charter.com/>) and will not be provisioned. If this happens you will presented the following on-screen message:

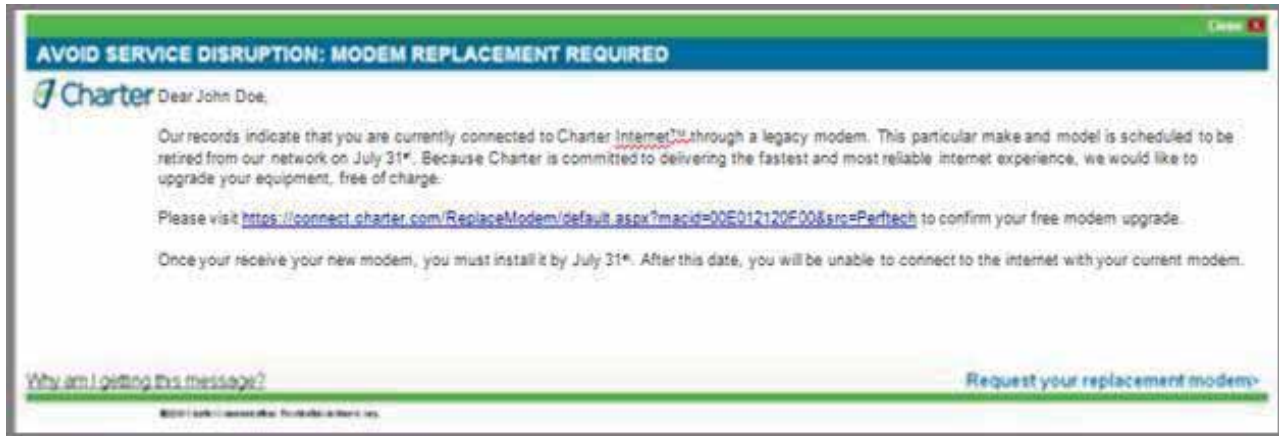
Activation of this device has been prohibited. Firmware on the device does not function properly with the Charter network and cannot be upgraded. Please use a different device or contact Charter at 888-438-2427.

The non compliant device cannot be installed on the Charter network and you must install and use a more compliant modem or gateway device.

Customer Notification

As part of our network monitoring, as we identify non compliant modems and gateways we may message our customers who need to replace their equipment.

You may be notified by a bill message on your statement, an email, or you may receive a browser message like the example below requesting you to take action to provision compliant equipment on our network. This will require you to swap/replace your existing modem or gateway.



If you have a modem, you will be directed to utilize the self-help modem replacement website. If you **do not** install a compliant device after the initial notice you may be presented with several **reminder** notifications (approximately every 2 days).

Upon receipt of the new equipment, you must install the device using the provided instructions.

If you receive a notice and you subscribe to our Charter WiFi service or have a Gateway you will need to contact us to schedule a professional install by our technicians.

Identifying Your Equipment

Cable Modems

A cable modem is a piece of equipment that connects your computer or router to the Internet via Charter's network. A cable modem has two connections: one that leads to the cable lines outside your home, and another that is an Ethernet or USB connection, which leads to the computer(s) or router inside your home.

The back of a cable modem will look like the following:



The model numbers are generally located on the back or the bottom of your equipment

Routers

A router is an additional piece of equipment that connects to your cable modem that allows you to connect multiple devices either wired or wirelessly.



The model numbers are generally located on the back or the bottom of your equipment.

Gateway

A Gateway is a combined cable modem and router all in one.



The model numbers are generally located on the back or the bottom of your equipment.

EXHIBIT C



October 26, 2012

Mr. Robert E. Quicksilver
Executive Vice President and Chief Administrative Officer
Charter Communications, Inc.
12405 Powerscourt Drive
St. Louis, Missouri 63131

Dear Mr. Quicksilver:

I am writing to follow up on our recent discussions with you regarding Charter's policy, as revised effective June 26, 2012, not to allow customers to use customer-owned modems on the Charter network. Since Zoom Telephonics is a leading manufacturer of modems for the retail market, this new policy is extremely harmful to us. The purpose of this letter is to insure that Zoom understands the basis for your action and to determine whether Charter will agree to modify this policy.

Attached is a page downloaded today from this Charter page:

<http://www.myaccount.charter.com/customers/support.aspx?supportarticleid=2623>

The page's heading is "Compliant and Non Compliant Modems/Gateways on Charter's Network." Directly under the heading is this note:

Note: Effective June 26, 2012 For new Internet Customers and customers switching to our New Package Pricing, we will no longer allow customer-owned modems on our network. In order to provide our customers powerful and reliable Internet service at a great value, we will provide modems included in Internet pricing under our New Package Pricing.

Zoom has been advised that Charter's revised policy is prohibited by Section 629 of the Communications Act of 1934 and rules promulgated thereunder in Part 76, Subpart P of the Federal Communications Commission's rules. The policy is also at odds with Section 8.5(a) of the FCC's open Internet rules, which expressly prohibits Internet service providers from blocking non-harmful devices.

Section 76.1201 of the FCC Rules provides that
No multichannel video programming distributor shall prevent the connection or use of navigation devices to or with its multichannel video programming system, except in those circumstances where electronic or physical harm would be caused by the attachment or operation of such devices or such devices may be used to assist or are intended or designed to assist in the unauthorized receipt of service.

In light of what appears to be a clear legal mandate, Zoom is at a loss to understand the basis of Charter's revised policy. Zoom's modems do not cause electronic or physical harm to your network. Zoom's modems are also not "intended or designed to assist in the unauthorized receipt of service" within the meaning of the FCC's rules.

Zoom also views Charter's policy as a form of economic discrimination, since it forces a customer to rent a Charter modem whether or not the customer wants to do that. The fact that the cost of the cable modem is bundled into Charter's monthly service fee does not change that fact.

As you probably know, Comcast and Cox have for years permitted customer-owned cable modems; and Zoom Telephonics makes modems that have been certified by CableLabs, Comcast, and Cox. These companies allow a customer to choose whether to pay a cable modem lease charge from the company or instead avoid that charge by owning their own cable modem from Zoom, Motorola, or another

company with certified cable modems. You may also know that starting in November Time Warner Cable will also be offering its customers a choice of a certified customer-owned cable modem or a leased cable modem from Time Warner Cable.

In summary, the three largest cable service providers play by the rules established by t Congress and the FCC. The fourth largest cable service provider, Charter, should do the same.

We would welcome the chance to meet with you and perhaps your President and CEO, Thomas Rutledge, to understand your view and to come to a prompt, reasonable and amicable resolution of this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Manning", with a stylized flourish at the end.

Frank Manning
President and CEO, Zoom Telephonics
Office: 617-753-0003

EXHIBIT D



December 6, 2013

Paul Glist
Davis Wright Tremaine LLP
1919 Pennsylvania Avenue, NW
Washington, DC 20006

Hunt Brown
Assistant General Counsel and Vice President – Legal Operations

Charter Communications, Inc.
12405 Powerscourt Drive
St. Louis, Missouri 63131

Dear Mr. Brown and Mr. Glist:

I am writing to follow up the phone conversation that attorney Andrew Jay Schwartzman and I had with you on December 3, 2013. As you know, Zoom Telephonics and Charter have been working for over a year toward a Charter program that lets Charter customers purchase Charter-certified cable modems from U.S. retailers. Zoom has made it clear from the beginning that this program is important to us. Zoom and Charter have worked together to try to develop appropriate technical standards for such a program. While most of the discussion has focused on technical issues, Zoom has also made it clear that a key element of such a program is that the customer using a Zoom model would pay less for its service (by a reasonable amount) because Charter is not providing the cable modem. Comcast, Time Warner Cable, and Cox are among the U.S. cable service providers who have such a program, in which customers receive such “savings.”

Zoom made it clear once again during our December 3 call that our view is that Charter needs to provide a reasonable savings to someone purchasing his or her own cable modem from a retailer. We are not trying to dictate a particular savings, but we are saying that the savings should reasonably reflect costs. We believe that our position is supported by Section 629 of the Communications Act, 47 U.S.C. §549 and implementing regulations, including 47 U.S.C. §§1201, 1202, 1203 and 1206. These laws and regulations make it clear that Charter is required to separately state the cost of cable modems.

We heard the two of you say that you and Charter agree that the price Charter will charge for service unbundled from the cable modem charge is under

current review, and that Charter will offer a savings that it views as reasonable. Zoom made it clear in the call that Charter's determination of a charge for unbundled service in a timely fashion is important to Zoom. We believe that you and Charter understand that, and because of that understanding Zoom will look to Charter to have a reasonable program in a timely fashion.

We will continue to work with Charter to help finalize reasonable technical standards. We expect to submit Zoom cable modems for certification soon, with the goal of providing Charter-certified cable modems to US retailers for successful sale to Charter customers. One key element of those successful sales will be the savings offered by Charter.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Manning", with a stylized flourish at the end.

Frank Manning
President and CEO

EXHIBIT E

Compliant Modems on Charter's Network

General Information

Charter Internet customers are required to use a compliant device in order to use the Charter network without interruption and receive optimal service performance. Devices identified as not compliant may be subject to intermittent or no service.

Compliant Modems

As a Charter Internet customer, you are offered a compliant modem without any additional charge when you subscribe to a New Pricing and Packaging service tier. You may also choose to buy a modem that is certified by Charter to work with your Internet service.

Below are the modems that are compliant with all current Charter Internet tiers.

Vendor	Model
ARRIS	TM802G
ARRIS	TM804G
ARRIS	TM822A
ARRIS	TM822G
ARRIS	TM902A
CISCO SYSTEMS	DPC3008
CISCO SYSTEMS	DPC3010
CISCO SYSTEMS	DPC3208
CISCO SYSTEMS	DPC3825
MOTOROLA	SB6141
MOTOROLA	SBG6580
NETGEAR	CG3000D
UBEE	DDW3612

Below are the modems that are compliant with Charter Internet tiers up to 60Mbps

Vendor	Model
MOTOROLA	SB6120
MOTOROLA	SB6121
UBEE	U10C035
SMC NETWORKS	SMCD3GN-RES

EXHIBIT F



Search twc.com

20015

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Our services may not be available in your area

[il](#) Make sure you entered your zip code correctly. If you entered your zip code correctly, please call us at 1-855-394-6832 or visit [cablemover.com](#) to contact the cable company serving your area.

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Purchase your own Internet modem

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Need More Help?

PRINT

Buy your own modem or modem/WiFi router combo

We strive to offer our Time Warner Cable customers with the fastest and most reliable internet, every step of the way.

That's why you have the option of leasing your modem from us or buying your own.

When you lease your modem, we work to ensure that you have the right equipment for your Internet service level and speed. We will also provide you with technical support for your equipment. A small monthly charge will apply if you select this option.

Related FAQs

- [Can I purchase a modem directly from TWC or EarthLink?](#)
- [What if I have a modem that's not on the tested and approved list?](#)
- [I am a TWC/EarthLink Internet customer and would like to purchase my own Internet modem. What do I need to do?](#)
- [What price will I be charged to lease a](#)

If you prefer to buy your own modem, please refer to the instructions below to learn which modems are best for your TWC Internet service and how to activate your modem once you've purchased it.

If you live in New York City or Los Angeles and want to buy your own modem, please [see information specific to you](#).

Choose the right modem

It's important that you purchase a modem that is appropriate for your Internet service level. The following modems have been tested and approved for use with TWC Internet service.

Everyday Low Price Internet (ELP), Basic, Standard, Turbo, Extreme and Ultimate 50 service plans

ARRIS/ Motorola	SB6183 View details	User gui de (PD F)
D-Link	DCM301 View details	User gui de (PD F)
Motorola	SB6121 View details	User gui de (PD F)
Motorola	SB6141 View details	User gui de (PD F)
Motorola	SBG6580 View details	User gui de (PD F)
Motorola	SBG6782AC View details	User gui de (PD F)
Netgear	C3000-100NAS View details	

[modem from TWC/
EarthLink?](#)

- [All Internet FAQs](#)



		User gui de (PD F)
Netgear	C3700-100NAS View details	User gui de (PD F)
Netgear	CMD31T View details	User gui de (PD F)
Netgear	N450 CG3000Dv2 View details	User gui de (PD F)
Zoom	5341J View details	User gui de (PD F)
Zoom	5350 View details	User gui de (PD F)
Zoom	5352 View details	User gui de (PD F)
Zoom	5363 View details	User gui de (PD F)
ZyXEL	CDA30360 View details	User gui de (PD F)

Ultimate 75 & Ultimate 100 service plans (currently available in limited areas)

ARRIS/ Motorola	SB6183 View details	User gui de (PD F)
D-Link	DCM301 View details	User gui de (PD F)
Motorola	SB6141 View details	User gui de (PD F)
Motorola	SBG6580 View details	User gui de (PD F)
Motorola	SBG6782AC View details	User gui de (PD F)
Netgear	C3000-100NAS View details	User gui de (PD F)
Netgear	C3700-100NAS View details	User gui de (PD F)
Netgear	N450 CG3000Dv2 View details	User gui de (PD F)
Zoom	5341J View details	User gui de (PD F)

Zoom

5350

[View details](#)

User
gui
de
(PD
F)

Zoom

5352

[View details](#)

User
gui
de
(PD
F)

Zoom

5363

[View details](#)

User
gui
de
(PD
F)

ZyXEL

CDA30360

[View details](#)

User
gui
de
(PD
F)

[Step 1: Buy your modem.](#)

[Step 2: Connect your modem.](#)

[Step 3: Activate your modem.](#)

[Step 4: Return your TWC-leased modem.](#)

Products

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[Phone](#)
[IntelligentHome](#)

Services

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[Online](#)
[Ways to Pay Your Bill](#)
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EXHIBIT G

- Watch TV online with TWC TV® app

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\$49⁹⁹
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Up to 15Mbps
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- Great for sharing photos and downloading music
- **ONLINE ONLY**
PRICE: Save \$5/mo (was \$39.99)

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per month for 12 months

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Features

- Download speeds up to 15Mbps.
- Upload speeds up to 1Mbps
- [TWC WiFi® Hotspots](#)
- Free [Internet Security](#) and [Parental Controls](#) software
- 10 email accounts and 2 GB of space



Ready to Order

Equipment

Internet modem and Home WiFi
Wireless access for smartphones, laptops, tablets and other WiFi-enabled devices

\$11⁹⁴
per month

Internet modem only

TWC-leased modems provide a secure, reliable high-speed connection

\$5⁹⁹
per month

Buy your own modem

[See approved list](#)

NOTE: Internet service does not include equipment.

Extreme

Up to 30Mbps
Home WiFi, TWC WiFi® Hotspots
Upload up to 5Mbps

- Great for extreme gamers
- **ONLINE ONLY**
PRICE: Save \$5/mo (was \$59.99)

\$54⁹⁹
per month for 12 months

[Details](#)

Order

Ultimate 300

Up to 300Mbps
Home WiFi, TWC WiFi® Hotspots
Upload up to 20Mbps

Our fastest speed ever. Currently being rolled out in New York City and Los Angeles. Not available in all areas. Call

\$64⁹⁹
per month for 12 months

[Details](#)

CERTIFICATE OF SERVICE

I certify that on August 25, 2014, copies of the foregoing Petition to Deny, or in the Alternative, for Conditional Grant have been served by United States Mail, and by email, to the following:

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In addition, copies of the foregoing Petition to Deny, or in the Alternative, for Conditional Grant have been delivered by email to the following Federal Communications officials:

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In addition a copy of the foregoing Petition to Deny, or in the Alternative, for Conditional Grant has been delivered by email to the Commission's duplicating contractor:

Best Copy and Printing, Inc.
fcc@bcpweb.com

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Andrew Jay Schwartzman